

**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK**

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GERALD MASON,

Plaintiff,

**ANSWER**

- against -

07-10468

Judge Briant

VASSAR COLLEGE,

Defendant.

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Defendant, Vassar College, as and for its Answer to the Complaint, states as follows:

1. With regard to “1,” admits only that these are Plaintiff’s allegations.

2. With regard to par. “2,” denies the Court has jurisdiction over any Title VII claim,  
as no filing was made with either the New York Division of Human Rights or EEOC.

3. With regard to “3,” admits the Court has personal jurisdiction.

4. With regard to “4,” admits venue is proper in the Southern District of New  
York.

5. With regard to “5,” Defendant repeats and restates the previous admissions and  
denials with the same force and effect as if set forth herein at length.

6. With regard to “6,” admits plaintiff is an African-American male.

7. Admits par. “7.”

8. Admits par. “8.”

9. Denies having knowledge or information sufficient to form a belief as to the truth of  
the allegations of par. “9.”

10. With regard to par. “10,” defendant repeats and reiterates the admissions and denials

of the previous paragraphs with the same force and effect as if set forth herein at length.

11. With regard to par. "11," admits plaintiff was employed by defendant as High School Director of Administrative Services from November 2001 until June 2006, a period of approximately four years and seven months.

12. Denies par. "12."

13. Denies par. "13."

14. Denies par. "14."

15. Denies par. "15."

16. Denies having knowledge or information sufficient to form a belief as to the truth of the allegations of par. "16."

17. Denies par. "17."

18. Denies par. "18."

19. With regard to par. "19," defendant repeats and reiterates the admissions and denials of the previous paragraph with the same force and effect as if set forth herein at length.

20. Denies par. "20."

21. Denies par. "21."

22. Denies par. "22."

23. With regard to par. "23," defendant repeats and reiterates the admissions and denials of the previous paragraph with the same force and effect as if set forth herein at length.

24. Denies par. "24."

**FIRST AFFIRMATIVE DEFENSE**

25. To the extent any Title VII claim is asserted, such a claim should be dismissed, since plaintiff never made any filing with either the New York State Division of Human Rights or the EEOC.

**SECOND AFFIRMATIVE DEFENSE**

26. Defendant had legitimate, non-discriminatory reasons for plaintiff's termination, in June 2006 which included its dissatisfaction with plaintiff's inability to address long-standing well-documented, performance issues, primarily in the areas of communications and responsiveness. Accordingly, the §1981 and Executive Law claims for discrimination on the basis of race, should be dismissed in all respects.

**THIRD AFFIRMATIVE DEFENSE**

27. The Complaint fails to state a cause of action under §1981.

**THIRD AFFIRMATIVE DEFENSE**

28. The same individual (plaintiff's supervisor/defendant's Vice-President for Finance and Administration, Elizabeth Eismeier) who recommended plaintiff's hiring by defendant in 2001 was also the individual who recommended termination in June of 2006.

WHEREFORE, it is respectfully requested that the Complaint be dismissed in all respects, together with such other further and different relief as the Court may deem just and proper.

Dated: Hopewell Junction, New York  
December 20, 2007

Yours, etc.  
DONOGHUE, THOMAS, AUSLANDER & DROHAN

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